

## Department of the Army, DoD

## § 518.64

(d) The response to the requester should contain information concerning the fee status of the request, consistent with the provisions of subpart F, this regulation. Generally, the information shall reflect one or more of the following conditions:

- (1) All fees due have been received.
- (2) Fees have been waived because they fall below the automatic fee waiver threshold.
- (3) Fees have been waived or reduced from a specified amount to another specified amount because the rationale provided in support of a request for waiver was accepted.
- (4) A request for waiver has been denied.
- (5) Fees due in a specified amount have not been received.

(e) The explanation of the substantive basis for a denial shall include specific citation of the statutory exemption applied under provisions of this Regulation. Merely referring to a classification or to a "For Official Use Only" marking on the requested record does not constitute a proper citation or explanation of the basis for invoking an exemption.

(f) When the time for response becomes an issue, the official responsible for replying shall acknowledge to the requester the date of the receipt of the request.

### § 518.63 Extension of time.

(a) In unusual circumstances, when additional time is needed to respond, the DoD Component shall acknowledge the request in writing within the 10-day period, describe the circumstances requiring the delay, and indicate the anticipated date for substantive response that may not exceed 10 additional working days. Unusual circumstances that may justify delay are:

- (1) The requested record is located in whole or in part at places other than the office processing the request.
- (2) The request requires the collection and evaluation of a substantial number of records.
- (3) Consultation is required with other DoD Components or agencies having substantial interest in the subject matter to determine whether the records requested are exempt from dis-

closure in whole or in part under provisions of this Regulation or should be released as a matter of discretion.

(b) The statutory extension of time for responding to an initial request must be approved on a case-by-case basis by the final appellate authority for the DoD Component, or in accordance with regulations of the DoD Component, or in accordance with regulations of the DoD Component that establish guidance governing the circumstances in which such extensions may be granted. The time may be extended only once during the initial consideration period. Only the responsible IDA can extend it, and the IDA must first coordinate with the Office of the Army General Counsel.

(c) In these unusual cases where the statutory time limits cannot be met and no informal extension of time has been agreed to, the inability to process any part of the request within the specified time should be explained to the requester with notification that he or she may treat the delay as an initial denial with a right to appeal, or with a request that he agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made. Components are reminded that the requester still retains the right to treat this delay as a de facto denial with full administrative remedies.

(d) As an alternative to the taking of formal extensions of time as described in § 518.63 (a), (b), and (c), the negotiation by the cognizant FOIA coordinating office of informal extensions in time with requesters is encouraged where appropriate.

### § 518.64 Misdirected requests.

Misdirected requests shall be forwarded promptly to the DoD Component with the responsibility for the records requested. The period allowed for responding to the request misdirected by the requester shall not begin until the request is received by the DoD Component that manages the records requested.